

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

IN RE: ORAL SODIUM PHOSPHATE  
SOLUTION-BASED PRODUCTS  
LIABILITY LITIGATION

Case No. 1:09-SP-80000  
(MDL Docket No. 2066)

THIS DOCUMENT RELATES TO:  
  
ALL ACTIONS

The Honorable Ann Aldrich  
U.S. DISTRICT JUDGE  
Northern District of Ohio

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**APPOINTMENT OF PLAINTIFF'S  
CO-LEAD COUNSEL**

This Document Relates to All Actions

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The Judicial Panel on Multidistrict Litigation has transferred actions in the above-captioned matter to this Court for coordinated and consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407 as part of a nationwide litigation involving Oral Sodium Phosphate Solutions. Pursuant to this Court's jurisdiction over these actions, this Court hereby enters the following order:

**I. Organization and Responsibilities of Plaintiffs' Counsel.** The Court designated the following counsel to act on behalf of Plaintiffs:

**A. Plaintiffs' Co-Lead Counsel:** The Court designates the following counsel as Plaintiffs' Co-Lead Counsel:

Hunter J. Shkolnik  
Rheingold, Valet, Rheingold,  
Shkolnik & McCartney LLP  
113 East 37th Street, New York, NY 10016  
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Stephen J. Foley  
Foley & Mansfield PLLP  
250 Marquette Ave  
Suite 1200

Minneapolis, MN 55401  
Tel: (612) 338-8788  
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[sfoley@foleymansfield.com](mailto:sfoley@foleymansfield.com)

1. **Responsibilities of the Plaintiffs' Co-Lead Counsel:** Plaintiffs' Co-Lead Counsel shall be responsible for coordinating the activities of Plaintiffs during pretrial proceedings and shall:
  - a. Determine (after consultation with other members of Plaintiffs' Executive Committee and other co-counsel as may be appropriate) and present (in briefs, oral argument, or such other fashion as may be appropriate, personally or by a designee) to the Court and opposing parties the position of the Plaintiffs on all matters arising during pretrial proceedings;
  - b. Coordinate the initiation and conduct of discovery on behalf of Plaintiffs consistent with the requirements of the Federal Rules of Civil Procedure relating to discovery or any other subsequent order of this Court;
  - c. Conduct settlement negotiations on behalf of Plaintiffs, but not enter binding agreements except to the extent expressly authorized;
  - d. Delegate specific tasks to other counsel in a matter to ensure that pretrial preparation for the Plaintiffs is conducted effectively, efficiently, and economically;
  - e. Enter into stipulations, with opposing counsel, necessary for the conduct of the litigation;
  - f. Prepare and distribute to the parties periodic status reports;

- g. Maintain adequate time and disbursement records covering service of designated counsel and establish guidelines, for approval by the Court, as to the keeping of time records and expenses;
- h. Monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;
- i. Perform such other duties as may be incidental to proper coordination of Plaintiffs' pretrial activities or authorized by further Order of the Court; and
- j. Submit, if appropriate, additional committees and counsel for designation by the Court.

Counsel for Plaintiffs who have individual or divergent positions because of the status of their clients may present written and oral argument with leave of the Court and provided that in doing so they do not repeat arguments, questions, or actions of the Co-Lead Counsel.

**B. Plaintiffs' Liaison Counsel.**

John R. Climaco  
Climaco, Lefkowitz, Peca, Wilcox  
& Garofoli Co. LPA  
55 Public Square Suite 1950  
Cleveland, OH 44113  
216.621.8484 (ph) 216.771.1632 (fax)  
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**1. Responsibilities of Plaintiffs' Liaison Counsel shall include:**

- a. **Service List:** Maintain and distribute to co-counsel and to Defendant's Counsel an up-to-date service list regularly;
- b. **Accept Service:** Receive and, as appropriate, distribute to co-

counsel Orders from the Court and documents from opposing parties and counsel; and

- c. **Assist in Coordination:** Assist in the coordination of activities, discovery, meetings and hearings and assist in resolving scheduling conflicts among the parties.
- d. Shall have all the powers of Co-Lead Counsel.

Plaintiffs shall have one additional week to submit recommendations for a PEC and/or PSC structure. Proposed PEC and/or PSC structure due September 8, 2009.

/s/ Ann Aldrich  
ANN ALDRICH  
UNITED STATES DISTRICT JUDGE

Date: September 3, 2009